

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

UNITED STATES OF AMERICA

v.

Case No. 3:07CR00001

KEVIN ALFRED STROM

MOTION TO COMPEL PRODUCTION OF VIDEOTAPES

Comes now the defendant, Kevin Alfred Strom, and moves the Court, pursuant to Federal Rule of Criminal Procedure 16 to compel the government to provide copies of forensic interviews of two children conducted October 6, 2006, January 17, 2007, and January 18, 2007 and in support thereof states the following:

1. On May 29, 2007, a hearing was held on several motions. At this hearing, the above-mentioned videotapes were discussed when counsel asked that they be turned over to counsel as Brady material. The court suggested counsel review the tapes in the government's custody to determine whether they contained Brady material.

2. Counsel reviewed the tapes on May 31, 2007 and June 8, 2007 at the FBI office in Charlottesville. Subsequent to these viewings, counsel requested copies of these tapes. Counsel for the government has indicated that the government will not give copies of the tapes to defense counsel.

3. *Brady v. State of Maryland* held that suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material to either

guilt or to punishment. 373 U.S. 83, 87 (1963).

4. The three tapes in question contain evidence favorable to the defendant pertaining to the indictment pending against him. Both of the children reiterated a number of times on the tapes that the defendant never behaved in a sexually inappropriate way around them. Specifically, the child who has been previously identified as A.A. and is the alleged victim of Count I denied any sexually inappropriate conduct on the part of the defendant at least six times on the tapes. The other child also denied any such conduct.

5. Both children are likely to be witnesses at trial.

6. The defendant is entitled to such evidence and it is necessary in order for counsel to prepare an adequate defense; and, accordingly, requests the Court to order the government to provide copies of these tapes to counsel for the defendant.

Respectfully submitted,
KEVIN ALFRED STROM
By Counsel

Counsel:

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CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: counsel of record; and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: none.

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